

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRIAN C. OLIVER	:	CIVIL ACTION
	:	
v.	:	
	:	
GD CORRECTIONAL FOOD SERVICE, LLC. and JAMES C. KOSTURA	:	NO. 19-5084

ORDER

NOW, this 27th day of November, 2019, upon consideration of plaintiff's Application for Prisoners to Proceed in District Court Without Prepaying Fees or Costs (Document No. 1), his Prisoner Account Statement, and his Complaint, it is **ORDERED** that:

1. Pursuant to 28 U.S.C. § 1915, plaintiff's application to proceed *in forma pauperis* is **GRANTED**.
2. The complaint is deemed filed.
3. Oliver's inmate number on the docket sheet is **AMENDED** to show his correct inmate number of "2419-1960".
4. The Complaint is **DISMISSED WITHOUT PREJUDICE** as to defendant James C. Kostura only.
5. Pursuant to 28 U.S.C. § 1915(b), plaintiff, **Brian C. Oliver, # 2419-1960**, shall pay the filing fee of \$350 regardless of the outcome of this case.
6. The Warden or other appropriate official at Northampton County Prison is directed to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Oliver's prison account; or (b) the average monthly balance in Oliver's prison account for the six-month period immediately preceding the filing of this case and forward

the initial payment assessed, with a reference to the docket number of this case, to the Clerk of Court at the following address:

Clerk of the United States District Court
for the Eastern District of Pennsylvania
Room 2609
601 Market Street
Philadelphia, Pennsylvania 19106

7. In each succeeding month when the amount in Oliver's prison account exceeds \$10.00, the Warden or other appropriate official shall calculate, collect, and forward a payment equaling twenty percent (20%) of the preceding month's income credited to Oliver's prison account until the fees are paid and forward that amount, to be credited to **Civil Action No. 19-5084**, to the Clerk of Court at the above address.

8. Plaintiff is granted leave to file an amended complaint within thirty (30) days of the date of this Order, and any amended complaint shall: (a) identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint; (b) state the basis for plaintiff's claims against each defendant; and (c) specifically name the person or persons who plaintiff claims violated his rights;

9. The Clerk of Court shall send plaintiff a copy of this Court's form complaint to be used by a *pro se* individual filing a civil action, which the plaintiff may use to file an amended complaint;

10. Plaintiff shall use this standard form to file his amended complaint;

11. Upon the filing of an amended complaint, the Clerk shall not make service unless ordered to do so by the Court.

12. Oliver shall notify the Court within thirty days whether he wishes to proceed against GD Correctional Food Service, LLC.

13. If plaintiff chooses to proceed as to defendant GD Correctional Food Service LLC, the Clerk of Court shall issue summonses and transmit the summonses along with copies of the Complaint and this Order to the U.S. Marshals Service for immediate service under Fed. R. Civ. P. 4(c) (3);

14. If plaintiff fails to comply with this Order, his case will be dismissed.

15. The Clerk of Court is directed to forward a copy of this Order to the Warden or other appropriate official at SCI Fayette and to the plaintiff.

/s/ TIMOTHY J. SAVAGE J.